

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

**LANCE PHILLIPS &
SHAILYN PHILLIPS**

Plaintiffs

v.

Civil Action No. 3:13-cv-00272-SA-JMV

**TROY INDUSTRIES, INC., and
XYZ CORPORATIONS 1 - 5**

Defendants

ORDER

Before the court is Troy Industries, Inc.'s Motion for Leave to Conduct Discovery Outside [the] Discovery Deadline [83]. Having considered the submissions of the parties and oral argument heard today during the Final Pretrial Conference, the court's ruling is as follows:

In light of defense counsel's representations to the court and other counsel today concerning the gravity of the health related issues faced by defendant's expert, Mr. Morin, in his role as sole caregiver for his gravely ill partner, he will be excused from attending trial in person. Instead, at the option of plaintiff's counsel, the expert's trial testimony may be taken by videotaped deposition at the expert's location with counsel for the plaintiff present in person (defense counsel may, at its option attend either in person or by video conferencing). At the option of plaintiff's counsel, the deposition may instead be attended by all counsel via video conferencing as has been suggested by defense counsel—arrangements for same to be at the expense of defendant. Finally, if agreement to do so is reached by all counsel—and approved by the district judge solely within her discretion—the expert may be examined in real time by live feed video to the courtroom during the trial.

A final decision as to how plaintiff elects to proceed must be made and communicated to the magistrate judge no later than 5:00 p.m. on Monday, 3/3/15. In the event the parties agree to examine the witness live during trial via video feed, they must have obtained approval of the district judge to do so by 5:00 p.m. on Monday, 3/3/15. If no such approval has been obtained by such date and time, that will no longer be an option, and plaintiff must elect, by the same date and time, among the other remedies made possible by this order. If plaintiff elects to question the witness in person, the defendant shall be responsible for a single plaintiff's counsel's travel expenses, hotel lodging, cab fare and meal expenses incurred in doing so. In addition, defendant shall pay the cost of the deposition, including the cost of a copy of the transcript for plaintiff's counsel. Any trial deposition should be completed the week of 3/3/15, unless it is strictly impossible—in which event the magistrate judge should be promptly notified.

SO ORDERED this 27th day of February, 2015.

/s/ Jane M. Virden
U. S. MAGISTRATE JUDGE